

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

PROMESA

Title III

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR  
PUERTO RICO,

No. 17 BK 3283-LTS

As representative of

(Jointly Administered)

THE COMMONWEALTH OF  
PUERTO RICO, THE EMPLOYEE'S  
RETIREMENT SYSTEM OF THE  
GOVERNMENT OF THE  
COMMONWEALTH OF PUERTO  
RICO, AND THE PUERTO RICO  
PUBLIC BUILDINGS AUTHORITY,

Debtors.

**OBJECTION TO PROPOSED CONFIRMATION ORDER  
AT DKT. NO. 19,118**

Dated: November 16, 2021

**TO THE HONORABLE COURT:**

**COMES NOW** creditor Suiza Dairy Corp. (“Suiza”), through the undersigned counsel and, pursuant to Fed. R. Bankr. P. 3020, presents its Objection to the Proposed Confirmation Order (“Proposed Order”) proposed by the Financial Oversight and Management Board of Puerto Rico (“FOMB”) regarding the Modified Eighth Amended Plan of Adjustment (the “Plan”), filed on November 12, 2021 at Docket No. 19,184.

Suiza filed a timely Objection to the Disclosure Statement on June 15, 2021. Dkt. 17,013. Suiza also filed a timely Objection to the Confirmation of the Seventh Amended Plan of Adjustment on October 19, 2021. Dkt. 18,593. Finally, Suiza filed a Reply to the FOMB’s Omnibus Reply to Objections to Confirmation (Dkt. 18,874) on November 5, 2021. Dkt. 19,087.

The Plan as filed, is in contravention of the Takings Clause of the Constitution of the United States in regards to Suiza’s claim against the Commonwealth, inasmuch as it impermissibly and unlawfully classifies and treats Suiza’s claim on account of a federal takings determination as subject to discharge under the d Plan provisions. On those grounds, the Plan is unconfirmable under 11 U.S.C. §944 as incorporated by Title III of PROMESA 48 U.S.C. §§ 2161-2177 and §314(3) of Title III of PROMESA, 48 U.S.C. §2174, which requires that any plan of adjustment not be proposed in contravention of any law. In the alternative, Suiza’s claim should be

allowed in its entirety as a non-dischargeable claim against the Commonwealth and Office of the Milk Industry Regulatory Administration (“ORIL” by its Spanish acronym), one of its instrumentalities.

Specifically, ¶3(B), ¶3(N), ¶56(a), ¶56(b), ¶57, ¶59, ¶60 and ¶75 propose to discharge all claims against the Commonwealth and/or its instrumentalities and enjoin creditors from pursuing those claims, including Suiza’s constitutionally protected and non-dischargeable claim. See Dkt. 19,118 - p. 6-7 ¶(B); p. 10 ¶(N), p. 53-55 ¶56(a); p. 55 ¶55(b); p. 58-59 ¶57; p. 59-60 ¶59; p. 60-61 ¶60; p. 73 ¶75.

Suiza reiterates the objections raised in the Objections filed at Dkt. 17,013, Dkt. 18,593 and 19,087 and the oral arguments raised in the hearings of July 13, 2021, November 8, 2021 and November 15, 2021 and incorporates them herein as if fully transcribed and requests that they be deemed raised as to the Proposed Order.

Since the Plan, as proposed is unconfirmable, the Proposed Order may not be adopted by the Court. In the alternative, pursuant to §944(c)(1) of the Bankruptcy Code, 11 U.S.C. §944(c)(1), made applicable to this proceeding pursuant to §301(a) of PROMESA<sup>1</sup>, this Honorable Court should except the regulatory accrual payments constituting Suiza’s claim from discharge.

**WHEREFORE**, Suiza Dairy, Inc. most respectfully prays that the court DENY approval of the Modified Eighth Amended Plan of Adjustment as filed,

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<sup>1</sup> 48 U.S.C.A. §2161

absent an amendment to the same by the Commonwealth classifying Suiza's claim as a non-dischargeable claim subject to a 100% distribution under the Plan, and surviving these proceedings.

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that this motion was electronically filed with the Court using the CM/ECF system which will notify the filing by electronic means to all parties of record.

By: /s/ Rafael A. Gonzalez Valiente

USDC NO. 225209

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